United Nations S/AC.44/2004/(02)/29

Security Council

Distr.: General
3 November 2004

Original: English

Security Council Committee established pursuant to resolution 1540 (2004)

Note verbale dated 27 October 2004 from the Permanent Mission of the Republic of Angola to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Republic of Angola to the United Nations presents its compliments to the Chairman of the Committee established pursuant to resolution 1540 (2004) and, with reference to the latter's note verbale dated 21 June 2004, has the honour to transmit herewith the national report of the Republic of Angola submitted in accordance with paragraph 4 of Security Council resolution 1540 (2004) (see annex).

04-59387 (E) 141204

Annex to the note verbale dated 27 October 2004 from the Permanent Mission of the Republic of Angola to the United Nations addressed to the Chairman of the Committee

National report of the Republic of Angola on measures taken in implementation of Security Council resolution 1540 (2004)

The Permanent Mission of the Republic of Angola to the United Nations presents its compliments to the Secretariat of 1540 Committee Security Council established pursuant to resolution 1540 (2004) and, with reference to the letter's note verbal ref. nr. SCA/10/04/(02) dated 21 June 2004, has the honor to transmit thereafter the national report of the Republic of Angola submitted in accordance with the paragraph 4 of the Security Council Resolution 1540 (2004).

"**Operative Paragraph 1 of Security Council Resolution 1540** *Decides that* all States shall refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery"

The Republic of Angola does not provide any form of support to non state actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery.

Operative Paragraph 2 of Security Council Resolution 1540 " *Decides also* that all States, in accordance with their national procedures, shall adopt and enforce appropriate effective laws which prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, in particular for terrorist purposes, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them"

As it was mentioned in reports timely submitted to CTC and 1267 Committee, the Republic of Angola has taken some legislative measures in order to prevent the commission of terrorist acts; to prevent those who finance, plan, facilitate or commit terrorist acts from using their respective territories for those purposes against other States or their citizens; to ensure that any person who participates in the financing, planning, preparation or perpetration of terrorist acts or in supporting terrorist acts is brought to justice and ensure that, in addition to any other measures against them, such terrorist acts are established as serious criminal offences in domestic laws and regulations and that the punishment duly reflects the seriousness of such terrorist acts; and to refrain from providing any form of support, active or passive, to entities or persons involved in terrorist acts, including by suppressing recruitment of members of terrorist groups and eliminating the supply of weapons to terrorists;

Articles 263, 282 and 283 of the Angolan Penal Law appear to adequately meet the requirements mentioned at the beginning of this sub-paragraph.

In effect, the Angolan Criminal Code does not include an explicit definition of a terrorist act, however, articles 263 e 282 of the Penal Law pertaining to Associations of Malefactors, article 283, pertaining to unauthorized Associations and Secret Associations; and article 19, pertaining to rebellions, article 20, pertaining to armed rebellions, riots or outbreaks, article 21, pertaining to sabotage, article 22, pertaining to illegal weapons and explosives, article 27, pertaining to instigation, provocation and fomentation of crimes against State Security, article 28, pertaining to the punishment for preparatory acts, and article 29, pertaining to conjuration, appear to adequately meet some requirements mentioned in the resolution 1540

In general terms, as it appears in the Penal Code, a terrorist organization could be defined as any group acting in coordination, and seeking to:

- Jeopardize national integrity;
- Subvert the functioning of State institutions provided for under the constitution;

It could also be defined as practicing individual acts of terrorism anyone who, acting with the purposes mentioned above, commits crimes:

- against the life or physical integrity of a person; deliberately creates a common danger through fire, dissemination of radioactive substances or toxic gases;
- sabotage;
- carries out actions which imply the usage of nuclear energy, firearms, explosive substances or devices.

Without damage of what has been said before, it seems important to us that equal consideration be given to article 1 of the Angolan penal code, pertaining to the concept of crime; article 8, pertaining to the forms of emergence of the crime; article 19, 20, 21, 22 and 23, pertaining to the agents of the crime, its authors, accomplices and collaborators; article 53, pertaining to the application of penal law, and which, given its importance, we transcribed it:

"In the absence of treaties to the contrary, the penal law is applicable to:

1.º – All infractions committed on Angolan territory, regardless of the nationality of the infractor;

2.º – All crimes committed on board of an Angolan ship in the sea; on board of an Angolan war ship at a foreign port, or on board of an Angolan commercial ship at a foreign port, provided that only the crew has been involved in the crime and the tranquility at the port has not been disturbed;

3.º – All crimes committed by an Angolan citizen against the internal or external security of a foreign State, or of falsification of public seals, of Angolan currency, of public credit documents, of notes from the national bank, or from companies or businesses legally authorized to issue such notes, provided that the infractors have been subjected to a legal trial in the country where they committed the crime;

4.º – All foreigners who commit any of the above-mentioned crimes and who enter Angolan territory, or whose surrender can be obtained;

5.º – Any crimes or infractions committed by Angolans on foreign territory, provided that the following conditions are present:

a) The criminal or infractor is found in Angola;

b) The legislation of the country where the crime was committed also classifies such an action as a crime or infraction;

c) The criminal or delinquent has not been subject to trial in the country where the crime or infraction was committed.

§ 1.º – Infractions committed on board of a foreign war ship in Angolan sea space, or at an Angolan port, or on board of a foreign commercial ship are exceptions to the rule stated in n.º1, provided that they happen solely among the crew and no disturbances are felt at the port.

§ 2.º – When only correctional penalties are applicable to the infractions mentioned in n.º5, the Ministry of Public Affairs will not promote the trial of the process in question without there being a charge pressed by plaintiff parties, or without the official involvement of the authorities in the country where the infractions were committed.

§ 3.º – Should it occurs that a criminal or delinquent convicted for crimes or infractions referred to in n.º 3 and 5 fails to observe any penalties imposed whether partially or totally, a new process shall be initialized and appreciated by the Angolan courts, who, upon trying the crime or offense will decree the corresponding penalty in our legislation, taking into account any penalties the defendant may have undergone related to the crime.

Operative **Paragraph 3 of Security Council Resolution 1540** Decides *also* that all States shall take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery, including by establishing appropriate controls over related materials and to this end shall:

(a) Develop and maintain appropriate effective measures to account for and secure such items in production, use, storage or transport;

(b) Develop and maintain appropriate effective physical protection measures;

(c) Develop and maintain appropriate effective border controls and law enforcement efforts to detect, deter, prevent and combat, including through international cooperation when necessary, the illicit trafficking and brokering in such items in accordance with their national legal authorities and legislation and consistent with international law;

"(d) Establish, develop, review and maintain appropriate effective national export and trans-shipment controls over such items, including appropriate laws and regulations to control export, transit, trans-shipment and re-export and controls on providing funds and services related to such export and trans-shipment such as financing, and transporting that would contribute to proliferation, as well as establishing end-user controls; and establishing and enforcing appropriate criminal or civil penalties for violations of such export control laws and regulations;

Comments on these topics should be viewed in the same context as referred in OP. 2.

Furthermore, the Criminal Code in its article 22 with regard crimes against external state security, foresees the punishment of whoever promotes or establishes a terrorist group, adheres thereto or supports it, we quote, "whoever engages in unauthorized manufacturing, purchase, transfer, sale, transportation, possession or introduction in the country of chemical material, substances or devices, shall be condemned to 8-12 years of confinement."

The Angolan criminal legislation also punishes other criminal acts generally associated with terrorist activities, such as:

- Crimes of piracy, covered by article 15 of the law on crimes against state security;
- Violent or fraudulent acquisition of ships or aircraft for terrorist objectives;
- The usurpation of the command of national ships or aircrafts, or of ships or aircrafts freighted by a national enterprise;
- Crimes of sabotage;
- Offenses and other crimes against foreign governors and diplomats;

Besides the dispositions of the penal code herein, it is important to mention several government initiatives that contribute to the suppressing of recruitment to terrorist groups and to the elimination of the supply of weapons to terrorists, such as the signature of the Convention of Palermo, whose ratification process is under consideration in the terms of the Law on International Treaties.

There is also the active participation in the negotiation of the SADC Protocol on the control of firearms, ammunition and other related materials, and the adoption of law 19/92 on the safety of private companies, adopted by the National Assembly.

With regard to the item (d) particularly, "Establish, develop, review and maintain appropriate effective national export and trans-shipment controls over such items, including appropriate laws and regulations to control export, transit, trans-shipment and re-export and controls on providing funds and services related to such export and trans-shipment such as financing, and transporting that would contribute to proliferation, as well as establishing end-user controls; and establishing and enforcing appropriate criminal or civil penalties for violations of such export control laws and regulations" ,it is important to convey that the activities of national security are carried out according to the terms of penal procedural law and of decrees establishing the organization and functioning of services of public information and of organs and internal services of the Republic of Angola.

As already mentioned, the financing of terrorism and/or of terrorist acts in general, are referred in articles 263 (Associations of Malefactors), 282 (Illicit Organizations), 283 (Secret Associations) as well as by articles 349 and 350 of the Penal Law, which refer to crimes against the security of the people. Thus, terrorist acts are perceived as crimes that endanger national security.

The enforcement of national security goals, services and organs is integrated in the national security system:

- They produce information intended to support security policies and protection of human life, integrity and dignity;
- They safeguard the public tranquility as well as the constitutional order; and,
- They produce information intended for the general prevention and special protection against terrorism.

In short, the mechanisms of the National System for Internal Security involve all security forces, intervention and special operations groups, criminal investigation, immigration services, maritime and aeronautical authorities and customs departments.

Regarding the international level, the exchange of information is made within the framework of the multilateral and bilateral engagements undertaken by the Republic of Angola, as well as in the strengthening of the cooperation with international and regional organizations, and through information networks such as INTERPOL.

The Republic of Angola has adhered to the International Organization of Criminal Police – INTERPOL – during the 51st session of the General Assembly, from October 5th to 12th, 1982, in Spain.

The Republic of Angola also develops in the framework of its relations with other countries, at the multilateral and bilateral levels, a systematic action in terms of reinforcing the international cooperation on terrorism being the Declaration of the CPLP on the fight against international terrorism (October 31, 2001) demonstrative of its clear engagement.

Operative Paragraph 7 of Security Council Resolution 1540 "*Recognizes* that some States may require assistance in implementing the provisions of this resolution within their territories and invites States in a position to do so to offer assistance as appropriate in response to specific requests to the States lacking the legal and regulatory infrastructure, implementation experience and/or resources for fulfilling the above provisions"

Due to the need to improve and make the measures more adequate and efficient towards the implementation of Security Council resolution 1540, the Government of Angola has been carrying out a study in order to identify sectors requiring technical assistance.

Preliminary steps were also undertaken to facilitate the promotion of the international instruments such as, Non-Proliferation Treaty. Comprehensive Nuclear-Test-Ban Treaty, Biological and Toxin weapons Convention, and Chemical Weapons Convention, as well as the Pelindaba treaty related the African nuclear-weapon-free Zone.

Recognizing that international cooperation provides the foundation upon which countries can strengthen their capacities to implement the already-mentioned Conventions, as soon as it is required, the Republic of Angola will consider the appropriate way (in) (to) deal with the need of technical assistance as referred to

Operative Paragraph 8 of Security Council Resolution 1540 "Calls *upon* all States:

(a) To promote the universal adoption and full implementation, and, where necessary, strengthening of multilateral treaties to which they are parties, whose aim is to prevent the proliferation of nuclear, biological or chemical weapons;

(b) To adopt national rules and regulations, where it has not yet been done, to ensure compliance with their commitments under the key multilateral non-proliferation treaties;

(c) To renew and fulfill their commitment to multilateral cooperation, in particular within the framework of the International Atomic Energy Agency, the Organization for the Prohibition of Chemical Weapons and the Biological and Toxin Weapons Convention, as important means of pursuing and achieving their common objectives in the area of non-proliferation and of promoting international cooperation for peaceful purposes;

(d) To develop appropriate ways to work with and inform industry and the public regarding their obligations under such laws", and **Operative Paragraph 10 of Security Council Resolution 1540** "Further to counter that threat, *calls upon* all States, in accordance with their national legal authorities and legislation and consistent with international law, to take cooperative action to prevent illicit trafficking in nuclear, chemical or biological weapons, their means of delivery, and related material."

As a party to, the Nuclear Non-Proliferation Treaty the obligations in this treaty is fully enacted in legal national framework.

The Government of the Republic of Angola stresses the fundamental importance of full compliance with the provisions of the Treaty and in the IAEA safeguards agreements. In this context, it reiterates its conviction that IAEA safeguards system provides a mechanism to ensure that States comply with their Treaty obligations.

While (Since) it promotes further confidence; help to strengthen international security and play a key role in preventing the proliferation of nuclear weapons and other nuclear explosive devices, the possibility for signing safeguards agreements with IAEA is under consideration.

The Republic of Angola is also one of those 169 countries that have signed the Comprehensive Nuclear-Test-Ban Treaty (CTBT).

By signing the Comprehensive Nuclear-Test-Ban Treaty, the Republic of Angola has reaffirmed therefore its strong determination to enhance international peace and security throughout the world and stressed the importance of all these treaties as a systematic and progressive effort towards nuclear disarmament and nuclear non-proliferation, since it is an integral part of our global efforts to achieve international security for all, free from the threat of weapons of mass destructions.

Convinced of the need to go further in achieving the ultimate goal of a world entirely free of nuclear weapons, as well as of the obligations of all States to contribute to this end, the Republic Angola has signed the Pelindaba treaty related the African nuclear-weapon-free Zone.

In view of the Republic of Angola, it constitutes an important step towards strengthening the non-proliferation regime, promoting cooperation in the peaceful uses of nuclear energy, promoting general and complete disarmament and enhancing regional and international peace and security.

Finally, it should be noted that Angola recognizes that international cooperation provides the foundation upon which countries can strengthen their capacities to implement the already-mentioned Conventions".

The Permanent Mission of the Republic of Angola to the United Nations avails itself of this opportunity to renew to the Secretariat of the 1540 Committee the assurances of its highest consideration.

October 28, 2004

SECRETARIAT OF THE 1540 COMMITTEE OF THE UNITED NATIONS SECURITY COUNCIL.
NEW YORK